

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

YADIR ONTIVEROS, et al., as an
individual, and on behalf of all others
similarly situated,

Plaintiffs,

vs.

SAFELITE FULFILLMENT, INC., a
Delaware corporation; SAFELITE
GROUP, INC., a Delaware corporation;
SAFELITE GLASS CORP., a Delaware
corporation; and DOES 1 through 10,

Defendants.

Case No.: CV 15-7118-DMG (RAOx)

**FINAL JUDGMENT AND ORDER
GRANTING FINAL APPROVAL OF
CLASS ACTION SETTLEMENT [142]**

1 This matter came on for hearing on September 20, 2019, at 10:00 a.m., in the
2 United States District Court for the Central District of California before the undersigned.
3 Due and adequate notice having been given to the Settlement Classes (defined below),
4 and the Court having considered all papers filed and proceedings held herein, and having
5 reviewed the record in the above captioned matter, and good cause appearing,
6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

7 1. The Court has jurisdiction over the subject matter of the above-captioned
8 action (the “Action”), the Class Representatives Yadir Ontiveros and Francisco Curiel
9 (“Plaintiffs” or “Class Representatives”), Defendant Safelite Fulfillment, Inc.
10 (“Safelite”), and all members of the following Settlement Classes:

11 **Class 1a (PPP Incentive Plan Class – Unpaid Rest Periods):** All current and
12 former non-exempt employees of Safelite who worked in California as a
13 Technician, and who were paid pursuant to Safelite’s PPP Incentive Plan, during
14 the time period September 9, 2011 through April 9, 2017.

15 **Class 1b (PPP Incentive Plan Class – Unpaid Non-Productive Time):** All
16 current and former non-exempt employees of Safelite who worked in California as
17 a Technician, and who were paid pursuant to Safelite’s PPP Incentive Plan, during
18 the time period June 4, 2013 through April 9, 2017.

19 **Class 1c (PPP Incentive Plan Class – Wage Statements):** All current and former
20 non-exempt employees of Safelite who worked in California as a Technician, and
21 who were paid pursuant to Safelite’s PPP Incentive Plan, during the time period
22 September 9, 2014 through April 9, 2017.

23 **Class 2a (Wage Statement Class – Meal Period Premium):** All current and
24 former non-exempt employees of Safelite who worked in California, and were paid
25 a meal period premium payment, during the time period September 9, 2014
26 through October 16, 2017.

27 **Class 2b (Wage Statement Class – Installation Bonus):** All current and former
28 non-exempt employees of Safelite who worked in California, earned an Installation

1 Bonus and worked overtime hours during the corresponding time period that the
2 Installation Bonus was earned, during the time period September 9, 2014 through
3 October 16, 2017.

4 **Class 3a (Unpaid Overtime Class – Artificial Dilution of Regular Rate):** All
5 current and former non-exempt employees of Safelite who worked in California,
6 and who in the same time period: (i) were paid a meal period premium payment as
7 “regular” hours worked; and (ii) earned any form of incentive pay; and (iii) worked
8 overtime hours, during the time period September 9, 2011 to October 16, 2017 (but
9 limited to the time period of June 4, 2013 through October 16, 2017 for those
10 individuals who worked as Technicians or Windshield Repair Specialists).

11 **Class 3b (Unpaid Overtime Class – Underpaid Double-time Premium):** All
12 current and former non-exempt employees of Safelite who worked in California,
13 and who, in the same time period: (i) earned any form of incentive pay; and (ii)
14 worked double-time hours, during the time period September 9, 2011 to October
15 16, 2017 (but limited to the time period of June 4, 2013 through October 16, 2017
16 for those individuals who worked as Technicians or Windshield Repair
17 Specialists).

18 **Class 4 (Waiting Time Penalty Class):** All members of Classes 1a, 1b, 2a, 2b, 3a,
19 and 3b who separated their employment from Safelite at any point in time between
20 March 2, 2014 through January 18, 2019.

21 **Class 5 (PAGA Settlement Class):** All members of Classes 1a, 1b, 1c, 2a, 2b, 3a,
22 and 3b who worked for Safelite during the time period September 10, 2014
23 through January 18, 2019.

24 2. The terms “Settlement” or “Settlement Agreement” shall refer to the
25 Stipulation of Settlement and Release filed by Plaintiffs as Exhibit 1 to the Declaration of
26 Paul K. Haines in Support of Preliminary Approval of Class Action Settlement, on March
27 8, 2019 [Doc. # 130-1], and all terms herein shall have the same meaning as the terms
28 defined in the Settlement Agreement, unless specifically provided otherwise herein.

1 3. The Court grants final approval of the Settlement Agreement because it meets
2 the criteria for final settlement approval. The Settlement falls within the range of
3 possible approval as fair, adequate, and reasonable, appears to be the product of arm's-
4 length and informed negotiations, and treats all members of the Settlement Classes fairly.

5 4. The Court finds that the distribution by U.S. first-class mail of the Rule 23 Class
6 Notice constituted the best notice practicable under the circumstances to all persons
7 within the definition of the Settlement Classes and fully met the requirements of due
8 process under the United States Constitution and applicable state law. Based on evidence
9 and other material submitted in conjunction with the Final Approval Hearing, the notice
10 to the Settlement Classes was adequate. The notice informed members of the Settlement
11 Classes of the terms of the Settlement, their right to participate in the Settlement and how
12 to do so, their right to object to the Settlement, their right to appear at the Final Approval
13 Hearing and be heard regarding approval of the Settlement, and their right to exclude
14 themselves from the Settlement and pursue their own remedies. Adequate periods of
15 time were provided by each of these procedures. No members of the Classes objected to
16 the Settlement or Class Counsel's Motion for Attorneys' Fees, Costs, and Class
17 Representative Incentive Payments, and no Settlement Class Members opted out of the
18 Settlement.

19 5. The Court finds, for purposes of settlement only, that the Settlement Classes
20 satisfy the applicable standards for certification under Federal Rules of Civil Procedure
21 23(a) and 23(b)(3). Accordingly, solely for purposes of effectuating the Settlement, this
22 Court has certified the Settlement Classes, as defined above. Because the Settlement
23 Classes are being certified here for settlement purposes only, the Court need not (and
24 does not) address the manageability requirement of Rule 23(b)(3). *See Amchem*
25 *Products, Inc. v. Windsor*, 521 U.S. 591 (1997).

26 6. The Court approves the Settlement, and each of the releases and other terms set
27 forth in the Settlement Agreement, as fair, just, reasonable, and adequate as to the
28 Settlement Classes, the Class Representatives, and Safelite (collectively the "Settling

Parties”). The Settling Parties and the Settlement Administrator are directed to perform in accordance with the terms set forth in the Settlement Agreement.

7. Pursuant to the Settlement Agreement, and after the fulfillment of Safelite’s obligations under the Settlement Agreement, all of the Released Claims are dismissed with prejudice against the Released Parties as to the Class Representatives and the members of the Settlement Classes, for the duration of the Class Period. The Settling Parties are to bear their own attorneys’ fees and costs, except as otherwise provided in the Settlement Agreement and in this Judgment and Order.

8. By this Judgment, and after the fulfillment of Safelite’s obligations under the Settlement Agreement, the Class Representatives and all Settlement Class Members shall release the Released Parties (as defined in the Settlement Agreement) from all Released Claims, pursuant to the terms of the Settlement Agreement, for the duration of the Class Period.

9. The Court finds that the plan of allocation of the Net Settlement Amount as set forth in the Settlement Agreement is fair and reasonable, and that distribution of Individual Settlement Payments to members of the Settlement Classes shall be effected in accordance with the terms outlined in the Settlement.

10. The Court hereby confirms the appointment of Yadir Ontiveros and Francisco Curiel as Class Representatives for Settlement Classes 1a, 1b, 1c, 2a, 2b, 3a, 3b, and 5, and confirms the appointment of Francisco Curiel as the Class Representative of Settlement Class 4, for purposes of the Settlement.

11. The Court hereby confirms the appointment of Paul K. Haines, Fletcher W. Schmidt, Tuvia Korobkin, Sean M. Blakely, Andrew J. Rowbotham, and Matthew K. Moen of Haines Law Group, APC as Class Counsel for purposes of the Settlement.

12. The Court hereby approves the payment from the Settlement Amount of settlement administration costs in the amount of \$22,000.00 to CPT Group, Inc., the Settlement Administrator, for services rendered in this matter. The Court also approves payment from the Settlement Amount of Class Representative Enhancement Payments to

1 the Class Representatives in the amount of \$10,000.00 to Yadir Ontiveros and \$5,000.00
2 to Francisco Curiel, to compensate the Class Representatives for their valuable services
3 in initiating and maintaining this litigation (as well as the companion Curiel action in
4 California Superior Court) and the benefits conferred onto the Settlement Classes as a
5 result of the litigation. The Court finds that these payments are fair and reasonable. The
6 Settlement Administrator is directed to make the foregoing payments in accordance with
7 the terms of the Settlement Agreement.

8 13. The Court hereby approves a payment from the Settlement Amount of
9 \$150,000.00 to the California Labor & Workforce Development Agency for its share of
10 penalties under the Labor Code Private Attorneys General Act, pursuant to Cal. Lab.
11 Code § 2699(i), in accordance with the terms of the Settlement Agreement.


12 14. The Court hereby awards to Class Counsel the amount of \$2,733,833.33 for
13 attorney's fees, and the amount of \$109,456.98 for costs. Based on Plaintiffs' Motion for
14 Attorneys' Fees, Costs, and Class Representative Incentive Payments [Doc. # 139], the
15 Court finds that Class Counsel advanced legal theories on a contingent-fee basis; Class
16 Counsel are experienced in the types of claims litigated in the Action; Class Counsel
17 diligently advocated for the Settlement Classes; and Class Counsel's efforts resulted in
18 substantial monetary recovery for the Settlement Classes. The Court therefore finds this
19 payment of attorneys' fees and costs to be fair and reasonable. The Settlement
20 Administrator is ordered to make these payments to Class Counsel in accordance with the
21 terms of the Settlement Agreement.

22 15. Final judgment is hereby entered pursuant to Rule 23(c)(3) of the Federal Rules
23 of Civil Procedure and in conformity with the Settlement Agreement. The Court reserves
24 and retains exclusive and continuing jurisdiction over the Action, the Class
25 Representatives, the Settlement Classes, and Safelite for the purposes of supervising the
26 implementation, effectuation, enforcement, construction, administration, and
27 interpretation of the Settlement Agreement and this Judgment. This document shall
28

1 constitute a final judgment for purposes of Rule 58 of the Federal Rules of Civil
2 Procedure.

3 **IT IS SO ORDERED.**

4
5 DATED: September 20, 2019


DOLLY M. GEE
UNITED STATES DISTRICT JUDGE